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July 11, 2022

Mr. Russell Brady
Riverside County Planning Department
4080 Lemon Street, 12th Floor
Riverside, CA 92501

RE: Draft Environmental Impact Report for the Stoneridge Commerce Center Project (SCH
#2020040325)

Dear Mr. Brady:

Thank you for the opportunity to provide comments on Riverside County's Draft Environmental Impact Report (DEIR) for the Stoneridge Commerce Center (the Project). The Project would site over 9.5 million square feet of total warehouse space just east of the City of Perris on and adjacent to several Native American tribes' Traditional Cultural Landscape. Because the Project is located more than six miles away from the nearest highway via the preferred truck route, the Project would result in thousands of daily truck trips passing homes and a middle school in Perris. The County should consider other truck routing options to minimize the Project's impacts to sensitive receptors. The DEIR also does not properly analyze the Project's impacts to sensitive receptors, as it commits several material errors in the air quality analysis, and fails to disclose and sufficiently analyze significant traffic noise impacts. Moreover, the DEIR fails to adequately analyze the Project's cumulative impacts on tribal cultural resources, or to adequately incorporate the information provided by impacted tribes during the Assembly Bill (AB) 52 consultation process. Finally, the DEIR fails to adopt all feasible mitigation for the Project's significant impacts. The County should revise the DEIR to comply with the California Environmental Quality Act (CEQA) and minimize the Project's environmental impacts.¹

¹ The Attorney General respectfully submits these comments pursuant to his independent power and duty to protect the environment and natural resources of the State. (See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612; *D'Amico v. Bd. of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.)

I. THE PROJECT WOULD SITE 9.5 MILLION SQUARE FEET OF NEW WAREHOUSE SPACE FAR FROM TRANSPORTATION CORRIDORS, CAUSING TRUCKS TO IMPACT EXISTING RESIDENTIAL COMMUNITIES.

The Project would construct one of the largest single warehouse complexes in California: over 9.5 million square feet of total warehouse space² and over 120,000 square feet of new retail commercial space on 582.6 acres.³ The DEIR projects that the Project will generate 3,916 daily heavy-duty truck trips—an average of one truck every 22 seconds over the expected 24/7 operation of the warehouse complex.⁴ The DEIR analyzes two different truck routing plans, each of which would involve a lengthy path to the highway past homes and other sensitive receptors. The Primary Truck Route plan would direct 98 percent of the Project's truck traffic along a six-mile route to the highway via Ramona Expressway, which borders Lakeview Middle School and a substantial residential community in Perris.⁵ The Southern Truck Route plan would still direct 60 percent of trucks (2,350 trucks daily) along Ramona Expressway, but 38 percent (1,488 trucks daily) would take a four-mile path via Nuevo Road, passing a planned residential development called McCanna Hills, two smaller residential communities, a church, and a public park.⁶ Annotated satellite images showing the truck routes and Project vicinity are attached to this letter as Exhibits A and B.

The Project would primarily impact three communities in Perris: the community bordering Ramona Expressway, the communities along the Southern Truck Route, and the planned McCanna Hills community. Ramona Expressway forms the northern border of a large residential community in Perris. Homes back up to Ramona Expressway along the entire 1.5-mile stretch from Rider Street to Avalon Parkway. The homes are slightly recessed into the ground, such that Ramona Expressway is approximately level with the homes' second stories. A short wall separates the homes from the road, but the wall does not shield second story windows

² The warehouse space consists of 8,461,530 square feet of light industrial uses and 1,069,398 square feet of business park uses. DEIR at 3-4.

³ *Id.* at 3-1, 3-4. The DEIR analyzes two slightly different land use plans for the site, depending on whether the Riverside County Transportation Commission (RCTC) constructs the Mid County Parkway (MCP) through the northwestern portion of the project site. The MCP would be a 16-mile transportation corridor that is designed to relieve east-west traffic congestion between the San Jacinto and Perris areas. The RCTC approved the final EIR for the MCP in 2015. Construction began in summer 2020 on one interchange that was contemplated for the MCP (Interstate 215/Placentia Avenue), which is planned for opening in August 2022. However, the RCTC has not secured funding for segments of the MCP that would traverse the Project area, so it is possible that the RCTC may not ultimately construct the MCP through the Project site. Several Native American tribes provided extensive reports under the AB 52 consultation process for the MCP regarding its potential impacts to the Tribal Cultural Landscape, and provided parts or all of those reports to the County during consultation on the Stoneridge Project.

⁴ DEIR at 3-28.

⁵ *Id.* at 3-28, 3-29 Fig. 3-12.

⁶ *Id.* at 3-28, 3-30 Fig. 3-13.

from traffic. Lakeside Middle School also backs to Ramona Expressway, with recreational facilities, including a baseball field and running track, adjacent to the road. Other sensitive receptors within 1,000 feet of the Primary Truck Route include Sierra Vista Elementary School, Avalon Elementary School, Frank Eaton Memorial Park, and hundreds of homes. According to CalEnviroScreen 4.0, CalEPA's screening tool that ranks each census tract in the state for pollution and vulnerability,⁷ while this community is not currently heavily polluted besides the region's extreme ozone pollution, it scores highly (73rd percentile) on population characteristics indicating greater vulnerability to pollution. For example, the community has greater rates of cardiovascular disease than 91 percent of other census tracts in California, and it has higher than average rates of asthma and newborns with low birth weight. The community also ranks in the upper half of all but one of CalEnviroScreen's socioeconomic vulnerability factors.⁸ About 81 percent of students enrolled at Lakeside Middle School are eligible for the Free or Reduced-Price lunch programs, meaning that these students come from families whose income are below CalEnviroScreen's poverty threshold, and 95 percent of the student population identify as persons of color.⁹ Among all residents of this community, the majority (64 percent) identified as Hispanic, and 86 percent of residents identified as a race/ethnicity other than white.

The communities along the Southern Truck Route include sensitive receptors on Nuevo Road, Dunlap Drive, and San Jacinto Avenue. Sensitive receptors on Nuevo Road include a handful of rural-style homes and a small suburban development at the intersection of Nuevo Road and Dunlap Drive. More suburban homes border Dunlap Drive, along with St. James the Less Catholic Church. Near Interstate 215, several suburban homes and Bob Long Park are adjacent to East San Jacinto Avenue. Because these communities span several census tracts, precise data on their pollution burden and demographic vulnerability to pollution do not exist, but the CalEnviroScreen data for these census tracts are relatively similar to one another. All suffer from significant ozone pollution and above average amounts of other pollutants—for example, pesticides in some census tracts, diesel particulate matter and traffic in others. Like the community bordering Ramona Expressway, the communities along the Southern Truck Route have high rates of cardiovascular disease, asthma, and low birth weight babies, and they rank in the upper half of all CalEnviroScreen measures of socioeconomic vulnerability except unemployment. These communities have a similar racial/ethnic makeup to the community bordering Ramona Expressway, with a majority of residents identifying as Hispanic, and the overwhelming majority identifying as non-white.

⁷ See Office of Environmental Health Hazard Assessment, CalEnviroScreen 4.0 <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40> (last visited July 9, 2022).

⁸ The one CalEnviroScreen socioeconomic vulnerability factor in which this community scores better than average is unemployment, indicating that residents already possess sufficient job opportunities.

⁹ Lakeside Middle, National Center for Education Statistics (2021-2022), https://nces.ed.gov/ccd/schoolsearch/school_detail.asp?Search=1&DistrictID=0691135&ID=069113511243 (last visited July 9, 2022).

Finally, the McCanna Hills Specific Plan is an approved but unconstructed development that would be sited west of the Project site and south of the community bordering Ramona Expressway (see Exhibit C). The McCanna Hills development shares its eastern edge with the western border of the Project site. Active permits exist to build on several planning areas, including two that would construct new housing north of Antelope Road and Nuevo Road, adjacent to the Project site and along the first section of the Southern Truck Route.¹⁰ If those units are ultimately constructed and occupied, the Project would impact a substantial number of additional sensitive receptors. The Project would also directly affect several other planning areas in the McCanna Hills Specific Plan without active permits, including a third planning area along Nuevo Road, designated open space bordering the Project, and higher-density residential and open space along Ramona Expressway.¹¹

II. THE DEIR CONCLUDES THAT THE PROJECT WOULD HAVE SIGNIFICANT AND UNAVOIDABLE IMPACTS TO AIR QUALITY, NOISE, TRANSPORTATION, AGRICULTURE AND FORESTRY, AND AESTHETICS, AS WELL AS IMPACTS TO THE VIEWSHED OF TRIBAL TRADITIONAL CULTURAL LANDSCAPE.

The DEIR concludes that the Project would have significant and unavoidable impacts in five areas: air quality, noise, transportation, agriculture and forestry, and aesthetics. Regarding air quality, the DEIR calculated that the Project’s daily operational air emissions would include 1,137 pounds of nitrogen oxides (NO_x), 2,004 pounds of carbon monoxide (CO), and 160 pounds of volatile organic compounds (VOCs).¹² These emissions drastically exceed the applicable CEQA significance thresholds by factors of 21 (NO_x), 4 (CO), and 3 (VOCs) in an air basin already in “extreme” nonattainment for several ozone standards and “serious” nonattainment for multiple fine particulate matter standards.¹³ As to noise, the DEIR discloses significant noise and vibration impacts during construction—both on-site and off-site at Lakeside Middle School—and significant traffic noise impacts on Nuevo Road.¹⁴ On transportation, because the Project site is isolated from existing transportation corridors, the DEIR finds that the Project would exceed the County’s average vehicle miles traveled (VMT) per employee threshold by 26.22% and that the Project’s retail uses would increase total VMT in the County.¹⁵ On agriculture, the DEIR finds that the Project would convert 506.7 acres of important farmland, including 297.8 acres designated by the state as Prime Farmland, to non-agricultural uses.¹⁶ And as to aesthetics, the DEIR notes that the existing character of the Project site is rural and

¹⁰ See Exhibit C, Planning Areas 46 and 47.

¹¹ See, e.g., Exhibit C, Planning Areas 28A, 28B, 28C, 29, 44, 45, and 48.

¹² DEIR at 4.3-29 Table 4.3-9.

¹³ *Ibid.*

¹⁴ *Id.* at 4.15-39 to -40.

¹⁵ *Id.* at 4.18-22 to -23.

¹⁶ *Id.* at 4.2-9.

agricultural, and that the Project's industrial land uses would substantially alter the area's character and views.¹⁷

Furthermore, the DEIR concludes that there would not be significant and unavoidable impacts to tribal cultural resources because mitigation measures would reduce the impacts of the Project on tribal cultural resources to below a level of significance.¹⁸ The DEIR acknowledges that there would be impacts to the viewshed of the area, in a manner that would obstruct the San Jacinto River, the villages of Páyve and Páavo, and Mystic Lake—places of historical and cultural significance to several tribes that are designated as part of a Tribal Cultural Landscape¹⁹—defined as a tribal cultural resource because it is a landscape with cultural value to a California Native American tribe that is included or eligible for inclusion in the California Register of Historical Resources.²⁰ But the DEIR concludes that because there is currently very little development in the area, the development associated with the Project would not significantly impact the viewshed of the Tribal Cultural Landscape.²¹ However, notably, the DEIR's conclusions on Project impacts to the aesthetics of the area—that the Project's industrial land uses would substantially alter the area's character and views—is in direct conflict with its conclusion that the viewshed of the Tribal Cultural Landscape would not be significantly and unavoidably impacted.²²

III. THE DEIR FAILS TO APPROPRIATELY ANALYZE AND DISCLOSE ALL SIGNIFICANT ENVIRONMENTAL IMPACTS.

The purpose of CEQA is to ensure that a lead agency fully evaluates, discloses, and, whenever feasible, mitigates a project's significant environmental effects.²³ An EIR serves as an “informational document” that informs the public and decisionmakers of the significant environmental effects of a project and ways in which those effects can be minimized.²⁴ Accordingly, an EIR must clearly set forth all significant effects of a project on the environment.²⁵ Here, the DEIR fails to properly analyze and/or disclose the significant air quality, noise, transportation, and tribal cultural resources impacts of the Project.

A. The DEIR Fails to Properly Analyze and Disclose Significant Air Quality Impacts.

As noted above, the DEIR finds that Project operations would cause significant and unavoidable criteria pollutant emissions. The DEIR's health risk assessment (HRA) also

¹⁷ *Id.* at 4.1-15.

¹⁸ *Id.* at 4.19-8.

¹⁹ *Id.* at 4.19-6.

²⁰ Pub. Resources Code, § 21074, subd. (a)(1)(A).

²¹ DEIR at 4.19-6.

²² *Id.* at 4.1-15.

²³ Pub. Resources Code, §§ 21000-21002.1.

²⁴ CEQA Guidelines, § 15121, subd. (a).

²⁵ Pub. Resources Code, § 21100, subd. (b)(1); CEQA Guidelines, § 15126.2, subd. (a).

concludes that the Project's diesel particulate matter (DPM) emissions would cause 9.81 cancer cases per million people, just under the significance threshold of 10 cases per million. The California Air Resources Board's (CARB) comment letter, dated May 26, 2022, identifies several flaws in the HRA and an important omission from the criteria pollutant emissions analysis. When corrected, the HRA will likely find significant cancer risk from the Project's operational DPM emissions. The County must revise the DEIR to accurately reflect the Project's air quality impacts and recirculate it for public review.

The HRA of cancer risk from operational DPM emissions suffers from at least four flaws. First, it assumes an improperly low daily breathing rate for individuals aged 16-70. The DEIR uses a daily breathing rate for individuals aged 16-70 of 209 liters per kilogram per day.²⁶ Guidance from the California Office of Environmental Health Hazard Assessment (OEHHA) recommends using a daily breathing rate of 290 liters per kilogram per day for this demographic—nearly 40 percent higher than the DEIR assumed.²⁷ The DEIR does not explain why it departs from OEHHA guidance. (*See Golden Door Properties, LLC v. Cnty. of San Diego* (2018) 27 Cal. App. 5th 892, 905 (requiring substantial evidence to support methodology for CEQA impact analysis).) Because daily breathing rate is a critical component of an individual's estimated DPM exposure, recalculation of the cancer risk using the correct daily breathing rate will reveal substantially higher cancer risk than the DEIR previously disclosed.

Second, the HRA appears to omit emissions from off-site TRUs. While the HRA includes emissions from TRUs located at the Project site, it seemingly does not account for TRU emissions that occur along roadways near the Project.²⁸ These emissions will increase nearby sensitive receptors' overall DPM exposure, and thus must be included to accurately estimate cancer risk from Project operations.

Third, the HRA underestimates on-site TRU emissions. The HRA assumes that TRUs will idle on-site for fifteen minutes.²⁹ However, data collected by CARB demonstrate that TRUs spend an average of 3.3 hours at a facility.³⁰ For diesel-powered TRUs—which make up the vast

²⁶ See, e.g., DEIR, Appendix B1 at .pdf pg. 483.

²⁷ OEHHA Guidance at 5-23 to -24 (recommendation to use 95th percentile daily breathing rates), 5-25 Table 5.6 (95th percentile breathing rate for 16<70 years of 290 L/kg-day).

²⁸ See, e.g., DEIR, Appendix B1 at .pdf pg. 482 (including on-site TRU emissions but not off-site TRU emissions).

²⁹ See, e.g., *id.*, Appendix B1 at .pdf pg. 482.

³⁰ CARB, Staff Report, *Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate*, Appendix F ("Applicable Facility Determination Methodology"), at 18 (citing CARB, *2011 Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate* (August 31, 2011); CARB, Cold Storage Food/Distribution Questionnaire (2018)).

majority of TRUs currently in operation³¹—the HRA should assume on-site idling time is equivalent to total facility visit time.³² The HRA should therefore consider on-site TRU emissions from 3.3 hours of idling per truck visit. Alternatively, the DEIR should adopt mitigation measures, along with robust enforcement mechanisms, limiting on-site TRU idling to fifteen minutes.

Fourth, the HRA does not substantiate its assumption that the Project would receive 630 daily visits by trucks with TRUs under the Primary Land Use Plan.³³ The DEIR must support this assumption with substantial evidence. Pub. Resources Code § 21168.5. As diesel-powered TRUs emit considerable amounts of DPM, the number of truck trips with TRUs strongly influences projected DPM emissions and thus the overall estimated cancer risk.

Finally, the DEIR's calculation of operational criteria pollutant emissions omits emissions from TRUs. The DEIR estimates criteria pollutant emissions using CalEEMod. However, as CARB's comment explains, CalEEMod does not account for air pollutant emissions from TRUs.³⁴ Accordingly, the DEIR underestimates the Project's criteria pollutant emissions. The DEIR must separately model those emissions and add them to the Project's other operational emissions to accurately assess the Project's total criteria pollutant emissions from operation.

B. The DEIR Fails to Properly Analyze and Disclose Significant Noise Impacts.

The DEIR's noise analysis suffers from two flaws. First, the DEIR fails to disclose significant traffic noise impacts along Ramona Expressway. The DEIR states that the Project would have four significant noise impacts: (1) significant construction noise impacts at Lakeside Middle School from construction of a water main and tanks adjacent to the school, (2) significant construction vibration impacts at Lakeside Middle School, Sierra Vista Elementary School, and nearby residences from the water infrastructure construction; (3) significant on-site construction vibration impacts from blasting; and (4) significant increases in traffic noise along Nuevo Road between the Project site and Dunlap Drive.³⁵ However, the DEIR's analysis identifies a fifth significant noise impact: operational traffic noise increases on Ramona Expressway behind Lakeside Middle School and residences. Specifically, the DEIR finds that the Project would

³¹ According to data reported in the CARB Equipment Registry, approximately 15 percent of trailer TRUs are equipped with electric-standby capability.

³² CARB, Staff Report, *Proposed Amendments to the Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate*, Appendix I ("Health Analyses: Transport Refrigeration Units") at 39. Note that CARB's HRA assumes that total loading and unloading time is 4 hours rather than 3.3 hours, which would be a less conservative assumption in the context of the Project's HRA.

³³ See, e.g., DEIR, Appendix B1 at .pdf pg. 482.

³⁴ See, e.g., *id.*, Appendix B1 at .pdf pg. 104 (omitting any reference to calculating emissions from TRUs).

³⁵ *Id.* at 4.15-39 to -40.

increase traffic noise under year 2030 conditions by 2.2 dBA CNEL³⁶ (from 66.9 to 69.1) on Ramona Expressway south of Rider Street and by 1.9 dBA CNEL (from 67.0 to 68.9) on Ramona Expressway between Bradley Road and Evans Road.³⁷ As baseline traffic noise exceeds the County's 65 dBA CNEL standard for acceptable noise at a sensitive land use, the DEIR uses a significance threshold of a 1.5 dBA CNEL increase.³⁸ Thus, projected increases of 2.2 dBA CNEL and 1.9 dBA CNEL are significant. While the DEIR identifies these impacts as significant at Table 4.13-13, it omits these significant impacts from the narrative portions of the DEIR, including its discussion of significant impacts in the executive summary and summary portions of the noise section.³⁹ The DEIR also does not consider any mitigation for these significant impacts. The DEIR's failure to disclose these significant impacts and consider all feasible mitigation are CEQA violations.⁴⁰ Particularly as these significant noise impacts would affect sensitive receptors—students and teachers at Lakeside Middle School and numerous Perris residents—the County must revise the DEIR to fully disclose these impacts and consider all feasible mitigation measures, including routing the nearly 4,000 daily truck trips away from this community.

Second, the DEIR's noise analysis is also insufficient. The DEIR uses 24-hour average noise levels as the sole indicator of a significant operational traffic noise impact. However, the DEIR reports that a diesel truck traveling 50 mph produces between 80 and 90 dBA of noise at 50 feet away.⁴¹ The routes used by trucks visiting the Project would take trucks within 50 feet of dozens of sensitive receptors, particularly the homes bordering Ramona Expressway, which under the Primary Truck Route would be passed by a diesel truck an average of once every 23

³⁶ The community noise equivalent level (CNEL) weights 24-hour average noise levels to account for additional noise sensitivity in evening and night hours. *See id.* at 4.13-4.

³⁷ *Id.* at 4.13-43 Table 4-13.13. Table 4-13.13 also includes a line purporting to estimate the increase in traffic noise on Ramona Expressway between Rider Street and Bradley Road, but the corresponding data are not plausible. While the DEIR projects the ambient baseline noise levels along the surrounding two sections of Ramona at 66.9 and 67.0 dBA CNEL, the DEIR lists ambient baseline noise on Ramona Expressway between Rider Street and Bradley Road as 58.7 dBA CNEL. Equally implausibly, the DEIR also estimates the traffic noise increase at this portion of Ramona Expressway to be 0.0 dBA CNEL, even though this portion of Ramona Expressway would host the same number of truck trips and nearly identical numbers of passenger car trips. The County should correct this apparent error in the DEIR.

³⁸ *Id.* at 4.13-20, 4.13-26.

³⁹ Curiously, the DEIR section analyzing land use impacts references a potential noise wall along Ramona Expressway to mitigate significant noise impacts (*id.* at 4.11-21), but neither the significant impact along Ramona nor a potential noise wall are mentioned anywhere in the relevant summary or noise sections of the DEIR.

⁴⁰ Pub. Resources Code, § 21100, subd. (b)(1), (b)(3).

⁴¹ DEIR at 4.13-2 Fig. 4.13-1; *see also* Noise Sources and Their Effects, <https://www.chem.purdue.edu/chemsafety/Training/PPETrain/dblevels.htm> (last accessed July 6, 2022) (a diesel truck moving 40 miles per hour, 50 feet away, produces 84 decibels of sound).

seconds.⁴² The DEIR projects that 24-hour average sound levels, including noise from passing trucks, would stay below 70 CNEL along Ramona Expressway, so the Project's heavy-duty trucks would therefore cause substantial noise spikes at sensitive receptors as they pass. Indeed, the DEIR notes that "[t]wo sound levels 10 dB apart differ in acoustic energy by a factor of 10,"⁴³ and that a "10-dBA change is subjectively heard as an approximate doubling in loudness and would almost certainly cause an adverse change in community response."⁴⁴

The DEIR does not consider whether temporary noise spikes from diesel trucks would result in a significant noise impact. Especially pertinent is whether these noise spikes would cause health effects—such as sleep disturbance, stress, long-term hearing loss, or other impacts—yet the DEIR does not analyze these issues at all. Longstanding methodologies exist to study these impacts.⁴⁵ Instead, the DEIR leaves basic questions of interest to ordinary community members unanswered: for example, how loud is it at someone's home when the project's trucks pass, how often will they experience that noise, and will that noise affect their health? In light of evidence in the DEIR itself that the Project would subject sensitive receptors to large, temporary noise spikes, the DEIR's failure to consider whether significant noise impacts could result violates CEQA.⁴⁶

C. The DEIR's Analysis Regarding Truck Routes Makes a Major Error in Assumption, and Thus Should Consider Alternative Routes and Analyze Their Impacts.

The DEIR proposes two alternative truck routes to accommodate the Project's nearly 4,000 expected daily truck trips, both of which would lead to thousands of daily truck trips passing residences and sensitive receptors.⁴⁷ The Primary Truck Route plan would direct 98 percent of the Project's truck traffic along a six-mile route to the highway via Ramona Expressway, which borders Lakeview Middle School and a large residential community in

⁴² Ninety-eight percent of 3,916 daily truck trips equals approximately 3,838 daily truck trips, or one truck trip every 22.5 seconds.

⁴³ *Id.* at 4.13-1.

⁴⁴ *Id.* at 4.13-5.

⁴⁵ See, e.g., *Berkeley Keep Jets Over the Bay Comm. v. Bd. of Port Comm'rs*, 91 Cal. App. 4th 1344, 1382 (2001) ("The probability of being repeatedly awakened by multiple single-event sounds can be calculated, given sufficient data."); United States Environmental Protection Agency, *Protective Noise Levels: Condensed Version of EPA Levels Document* (1978) at 12 (explaining the "typical use" of the A-weighted sound exposure level metric is "[t]o describe noise from a moving source such as an airplane, train, or truck"); Barbara Griefahn, *Noise Control During the Night: Proposals For Continuous and Intermittent Noise*, 20 *Acoustics Australia* 43 (1992) (noting that " L_{eq} alone is not generally suitable for the prediction of sleep disturbance" and that nighttime traffic noise disrupts sleep and contributes to concrete health impacts, including cardiovascular disease).

⁴⁶ See, e.g., *Berkeley Keep Jets*, 91 Cal.App.4th at 1378.

⁴⁷ See Exhibits A & B.

Perris.⁴⁸ The Southern Truck Route plan would still direct 60 percent of trucks (2,350 trucks daily) along Ramona Expressway, but 38 percent (1,488 trucks daily) would take a four-mile path via Nuevo Road, passing the planned residential development of McCanna Hills, two smaller residential communities, a church, and a public park.⁴⁹

In addition to inadequately analyzing the adverse impacts to air quality and noise that these truck routes pose for sensitive receptors, as described above, the DEIR has incorrectly assumed that trucks on the Primary Truck Route would use the Ramona Expressway to access Interstate 215 in the east. The City of Perris, through which that stretch of Expressway traverses, has removed that portion of the Expressway as a truck route. According to Perris, the City removed the “entire stretch of Ramona Expressway as a truck route” under the Perris Valley Commerce Center Specific Plan, which the City adopted in January 2012, thus removing an approximately 2.5-mile stretch of Primary Truck Route located within Perris’s city limits along the Ramona Expressway.⁵⁰ As such, in accordance with Perris’s restriction, 98 percent of the Project truck traffic based on the Primary Truck Route plan, or 60 percent of the Project truck traffic based on the Southern Truck Route plan, is not viable.

The DEIR should therefore reconsider the truck routes it proposes to service the Project site to avoid the Ramona Expressway. One alternative is to redirect most of the truck traffic to the south; but instead of using the path planned under the Southern Truck Route, a new southern route could be used to divert trucks away from the sensitive receptors along the Southern Truck Route (the planned residential development of McCanna Hills, the two smaller residential communities, the church, and the public park). The alternative southern route would require the expansion in capacity of existing roads and the construction of a new highway interchange. For example, Dawson Road, whose northern terminus does not intersect any existing roads, could be extended to intersect with Nuevo Road to divert truck traffic south along Dawson Road immediately after departing the Project site. Trucks could then head west on San Jacinto Avenue, south on Dunlap Drive, followed by west on Ellis Avenue. To accommodate truck traffic onto Interstate 215 without routing trucks past major sensitive receptors, the County could consider the construction of an Interstate 215 highway interchange at Ellis Avenue, subject, of course, to approvals from Riverside County Transportation Commission and other relevant municipalities and agencies.

The alternative route described above is just one of several possible alternatives that could divert trucks away from the Ramona Expressway and the sensitive receptors along the Primary and Southern Truck Routes. In considering these alternative routes, the DEIR should further analyze the impacts to other environmental resources.

⁴⁸ DEIR at 3-28, 3-29 Fig. 3-12.

⁴⁹ *Id.* at 3-28, 3-30 Fig. 3-13.

⁵⁰ See City of Perris Comment Letter to Riverside County Planning Regarding Stoneridge Commerce Center DEIR (May 20, 2022) at 5.

D. The DEIR Fails to Properly Analyze and Disclose Significant Impacts to Tribal Cultural Resources.

Pursuant to AB 52, CEQA requires a lead agency, in consultation with traditionally and culturally affiliated tribes, to analyze project impacts to tribal cultural resources, which includes resources of tribal cultural value as well as scientific and archaeological value.⁵¹ The lead agency has a duty to analyze impacts to tribal cultural resources early in the CEQA process.⁵² AB 52 is intended to ensure that all stakeholders, including local and tribal governments, public agencies, and project proponents, will be informed about potentially impacted tribal cultural resources early in the development process and to identify and address potential adverse impacts to tribal cultural resources.⁵³ AB 52 explicitly recognizes that consultation between a lead agency and a tribal government is government-to-government consultation, and therefore can take place throughout the CEQA process and is not limited in time to any public commenting periods for the general public.⁵⁴ If the lead agency determines that a project may cause substantial adverse impacts to tribal cultural resources, the lead agency must consider measures to mitigate that impact.⁵⁵ The lead agency may finalize and certify an EIR only if tribal consultation has concluded, either through an agreement between the lead agency and the tribal government to measures that mitigate or avoid any significant effects on tribal cultural resources, or through the good faith conclusion by either the tribe or the lead agency that a mutual agreement cannot be reached.⁵⁶

Furthermore, CEQA requires the analysis of cumulative impacts because, as courts have explained, “[o]ne of the most important environmental lessons evident from past experience is that environmental damage often occurs incrementally from a variety of small sources.”⁵⁷

The DEIR analysis of Project impacts to tribal cultural resources is insufficient. The DEIR concludes in its analysis of Project impacts to aesthetic resources that “the Project vicinity exhibits a rural and agricultural character, and the development of the Project site with light industrial, business park, and commercial retail land uses would represent a substantial change to the existing visual character and quality of public views of the site and its surroundings. Impacts would therefore be significant.”⁵⁸ Yet, in direct conflict with this conclusion on aesthetic impacts, the DEIR concludes that the Project will not significantly adversely impact the viewshed of the tribes’ Traditional Cultural Landscape. It is unclear how the Project could

⁵¹ AB 52, § 1.

⁵² *Id.* § 1, subd. (b)(7).

⁵³ *Id.* § 1.

⁵⁴ State of California Governor’s Office of Planning and Research, AB 52 and Tribal Cultural Resources in CEQA, Technical Advisory (June 2017), at 7 n.6.

⁵⁵ Pub. Resources Code, § 20184.3, subd. (b)(2).

⁵⁶ Pub. Resources Code, §§ 20180.3.3 & 20180.3.2(b).

⁵⁷ *Kings Cty. Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 720; CEQA Guidelines, Appendix G, §§ 15130, 15355.

⁵⁸ DEIR at 4.1-19.

adversely and unavoidably impact aesthetic resources in the manner described in the DEIR, but not adversely impact the tribal viewshed. At least one tribe voiced concerns to the County that the Project may impact the viewshed of the Tribal Cultural Landscape, and the DEIR itself acknowledges that the views to the San Jacinto River, the villages of Páyve and Páavo, and Mystic Lake would all be obstructed.⁵⁹

CEQA requires the County to analyze whether the Project would cause a substantial adverse change in the significance of a tribal cultural resource.⁶⁰ The viewshed of an area is a component of landscape, in this case, a designated Tribal Cultural Landscape. The viewshed is therefore a protected tribal cultural resource that holds significance and continuity through tribal oral history; if the viewshed is obstructed or changed, the significance and meaning of a Tribal Cultural Landscape could be decimated. Substantial changes to this area's character and views, as the DEIR's own aesthetics analysis raises, could therefore significantly and adversely impact this tribal cultural resource.

The DEIR fails to include any technical analysis to evaluate impacts to the viewshed of the Tribal Cultural Landscape. In contrast, the DEIR's analysis of aesthetics impacts includes "field observations and site photographs, analysis of aerial photography," as well as information from the County GIS database.⁶¹ Impacts to tribal cultural resources are entitled under CEQA to the same level and rigor of technical analysis as other environmental resources. Pursuant to AB 52, the DEIR, with input from tribes, should analyze the impacts to the viewshed by conducting additional field surveys and site and aerial photography with specific analysis of how the Project would impact the character and views of the Tribal Cultural Landscape. In particular, recognizing that tribes have special knowledge and expertise with regards to their tribal cultural resources, the analysis should incorporate testimonials from tribal elders and representatives.⁶² Once more information and analysis are produced regarding impacts to the viewshed, the County, again with input from the tribes, should then consider all feasible mitigation to avoid adversely impacting the character and views of the landscape.

Furthermore, the DEIR, without substantiation, concludes that "future development is not anticipated to obstruct views of any scenic vistas or views."⁶³ The DEIR appears to be dismissing the need for a cumulative analysis of Project impacts to viewshed, without having sufficiently analyzed potential visual impacts from any other relevant anticipated developments. Pursuant to CEQA, the County must determine whether the Project's impacts are cumulatively considerable by considering relevant past, present, and future projects.⁶⁴ Here, the DEIR fails to identify any relevant projects. Notably, the Mid County Parkway is an anticipated development

⁵⁹ *Id.* at 4.19-6.

⁶⁰ OPR Technical Advisory, *supra* note 54, at 10.

⁶¹ DEIR at 4.1-1.

⁶² See AB 52, § 1; OPR Technical Advisory, *supra* note 54, at 5-6 (listing types of evidence relevant to the significance of tribal cultural resources).

⁶³ DEIR at 4.19-6.

⁶⁴ CEQA Guidelines, § 15065, subd. (a)(3).

that, as the DEIR raises, would be in the Project's vicinity and provide crucial infrastructure and access to the Project.⁶⁵ Because of its size, the Mid County Parkway could significantly alter the character and views of the landscape adjacent to the Project and as such, also alter the same viewshed. As part of the Mid County Parkway environmental review and planning process, several tribes prepared reports on the visual resources associated with the Tribal Cultural Landscape at the Stoneridge Project site—and provided parts or all of those reports relevant to viewshed to the County during AB 52 consultation for the Project.⁶⁶ Despite those reports' availability to the County, the DEIR fails to incorporate information from those reports or identify the Parkway as a potential source of adverse cumulative impacts on viewshed. The DEIR should be revised to incorporate and analyze the information that tribes provided, and conduct a cumulative impacts analysis inclusive of impacts from the Mid County Parkway, among other relevant anticipated developments.

IV. THE DEIR DOES NOT INCORPORATE ALL FEASIBLE MITIGATION MEASURES.

CEQA prohibits agencies from approving projects with significant adverse environmental effects where there are feasible mitigation measures that would substantially lessen or avoid those effects.⁶⁷ “Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified.”⁶⁸ The lead agency is expected to develop mitigation in an open public process,⁶⁹ and mitigation measures must be fully enforceable and cannot be deferred to a future time.⁷⁰

The DEIR finds significant and unavoidable impacts to air quality, noise, transportation, and agriculture and forestry. In addition, as discussed above, there are several additional significant impacts, including to air quality, noise, and tribal cultural resources, that are not sufficiently analyzed or disclosed in the DEIR. However, the DEIR fails to adopt all feasible measures to mitigate these significant impacts.

⁶⁵ See *supra* note 3; DEIR at 4.18-1.

⁶⁶ See Mid County Parkway Final EIR/EIS and Final Section 4(f) Evaluation at 3.8-26 (March 2015), <https://rctc.org/midcountyparkway/uploads/eir3/Volume%20I%20-%20Chapters%201%20-%202%20and%20Chapters%204%20-%207/Volume%20I%20-%20Chapter%203/3.8%20Cultural%20Resources.pdf> (last accessed July 10, 2022) (confirming a Cultural Landscape Study in consultation with tribes and various government agencies for areas around the Mid County Parkway).

⁶⁷ Pub. Resources Code, § 21100, subd. (b)(3).

⁶⁸ CEQA Guidelines, § 15126.4, subd. (a)(1)(B).

⁶⁹ *Cmtys. for a Better Env't v. City of Richmond* (2010) 184 Cal.App.4th 70, 93.

⁷⁰ CEQA Guidelines, § 15126.4.

A. The DEIR Fails to Adopt All Feasible Measures to Mitigate the Project's Significant Air Quality, Noise, and Transportation Impacts.

The Project suffers from substantial design issues that contribute to its significant environmental impacts. As discussed above, the Project is sited far from established transportation corridors, meaning that trucks visiting the Project's warehouses must drive long distances and pass sensitive receptors to reach the nearest highways. Compounding this problem, the City of Perris's comment letter notifies the County that Ramona Expressway—a road the DEIR estimates will handle thousands of additional daily truck trips once the Project is operational—is not a truck route within Perris city limits. The DEIR must consider design changes to mitigate or remove these impacts. For example, the DEIR should evaluate alternative truck routes, including construction of a new route to Interstate 215 that would route trucks away from sensitive receptors, as described in section III.C, above. Furthermore, the DEIR concludes that the Project would have significant transportation impacts, adding nearly 24,000 vehicle trips a day to the area.⁷¹ As a result, out of the 69 traffic intersections in the Project vicinity analyzed by the DEIR, 19 are expected to operate at a highly deficient or unacceptable "Level of Service" with regards to traffic flow (e.g., speed, travel time, delay, and freedom to maneuver) during AM and/or PM peak hours for 2030 traffic conditions, thus increasing vehicle emissions and hazards to residents.⁷² The DEIR finds that because of the suburban nature of the Project site and surroundings, mitigation measures cannot reduce traffic impacts to a level of less than significant. The DEIR should incorporate mitigation measures recommended below to reduce adverse Project-related traffic impacts, even if these impacts cannot be reduced to a level of less than significant.

The DEIR states that the Project will follow Riverside County's Good Neighbor Policy for Logistics and Warehouse/Distribution Uses ("Good Neighbor Policy").⁷³ However, the Project's compliance with the Good Neighbor Policy is questionable. For example, MM 4.3-2 and MM 4.3-7 purport to require the Project to follow the Good Neighbor Policy's construction and operational requirements, respectively. But at least three of the Good Neighbor Policy's construction provisions are missing from MM 4.3-2's list of measures,⁷⁴ and a fourth measure is not implemented in full.⁷⁵ Similarly, MM 4.3-7 states "applicable feasible provisions" of the

⁷¹ DEIR at 3-28.

⁷² *Id.* at 4.18-31.

⁷³ *See, e.g., id.* at 4.3-20, 4.3-27, 4.11-21 to -22, S-13 to -14 (MM 4.3-2), S-16 to -18 (MM 4.3-7), S-47 (CRDR 4.13-2).

⁷⁴ For example, Provisions 2.5, 2.8, and 2.10 of the Good Neighbor Policy do not appear in MM 4.3-2's list of measures or elsewhere in the DEIR. *Compare* Riverside County Board of Supervisors Policy F-3 at 3-4 *with* DEIR at S-13 to -14.

⁷⁵ Provision 2.2 of the Good Neighbor Policy requires large off-road, diesel-fueled construction equipment to be "equipped with CARB Tier 4 Compliant engines," providing an exception only if "the operator lacks Tier 4 equipment, and it is not available for lease or short-term rental within 50 miles of the project site." Riverside County Board of Supervisors Policy F-3 at 3.

Good Neighbor Policy “include, but are not limited to,” an enumerated list of provisions.⁷⁶ But it is unclear whether any Good Neighbor Policy provisions were omitted from the Project as “infeasible” and whether any provisions that are not in the enumerated list are also incorporated into the Project. The DEIR should list each item in the Good Neighbor Policy that MM 4.3-2, MM 4.3-7, CRDR 4.13-2, or any other binding measure incorporates so that the public can understand whether the Project in fact complies with the Good Neighbor Policy as the DEIR asserts.

Moreover, the Good Neighbor Policy alone does not comprise all feasible mitigation measures for this Project. The Attorney General’s Office published a document entitled “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act” (Warehouse Best Practices Document) to help lead agencies identify all feasible mitigation for projects of this kind.⁷⁷ Nearly all of the example mitigation measures in the Warehouse Best Practices Document have been adopted in a warehouse project in California, demonstrating their feasibility. Yet, the DEIR does not incorporate several basic measures from the Warehouse Best Practices Document that would substantially reduce the Project’s impacts on adjacent residential communities. At minimum, the County should consider the following mitigation measures to reduce the adverse impacts of the Project to air quality, noise, and transportation:

- Requiring off-road construction equipment to be hybrid electric-diesel or zero-emission, where available, and all diesel-fueled off-road construction equipment to be equipped with CARB Tier IV-compliant engines or better, and including this requirement in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant construction equipment for use prior to any ground-disturbing and construction activities.
- Using electric-powered hand tools, forklifts, and pressure washers, and providing electrical hook ups to the power grid rather than use of diesel-fueled generators to supply their power.
- Designating an area in the construction site where electric-powered construction vehicles and equipment can charge.
- Forbidding idling of heavy equipment for more than three minutes.
- Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.
- Providing information on transit and ridesharing programs and services to construction employees.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations for construction employees.

However, MM 4.3-2 only requires this equipment to have “CARB Tier 3 Certified engines or better.” DEIR at S-13.

⁷⁶ DEIR at S-16.

⁷⁷ <https://oag.ca.gov/system/files/media/warehouse-best-practices.pdf> (last accessed July 10, 2022).

- Increasing physical, structural, and/or vegetative buffers along projected truck routes to reduce pollutant dispersal and noise between trucks visiting the Project and adjacent sensitive receptors;
- Providing adequate areas for on-site parking, on-site queuing, and truck check-in that prevent trucks and other vehicles from parking or idling on public streets;
- Placing facility entry and exit points from the public street away from future residents of the McCanna Hills Specific Plan development;
- Constructing electric truck charging stations proportional to the number of dock doors at the project;
- Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the project;
- Requiring all on-site motorized operational equipment, such as forklifts and yard trucks, to be zero-emission with the necessary charging or fueling stations provided.
- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity that is equal to or greater than the building's projected energy needs, including all electrical chargers.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel;
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks;
- Meeting CalGreen Tier 2 green building standards, including all provisions related to designated parking for clean air vehicles, electric vehicle charging, and bicycle parking;
- Designing to LEED green building certification standards;
- Posting signs at every truck exit driveway providing directional information to the truck route;
- Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending CARB-approved courses. Also require facility operators to maintain records on-site demonstrating compliance and make records available for inspection by the local jurisdiction, air district, and state upon request;
- Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants who own, operate, or hire trucking carriers with more than 100 trucks to use carriers that are SmartWay carriers.
- Restricting the turns trucks can make entering and exiting the facility to route trucks away from sensitive receptors.
- Paving roads on the truck routes with low noise asphalt.

All of these measures are feasible, and they would reduce the Project's significant air quality, noise, and transportation impacts. The County should include these common sense measures in the Project.

B. The DEIR Fails to Adopt All Feasible Measures to Mitigate the Project’s Significant Impacts to Agricultural Land.

The DEIR finds that the Project would have significant and unavoidable direct and cumulative impacts to agricultural resources, due to the conversion of nearly 550 acres of farmland to non-agricultural use.⁷⁸ However, the DEIR contains no mitigation measures to reduce these impacts to a level of less than significant, citing *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814 (“*KG Farms*”) for the proposition that agricultural conservation easements are not feasible mitigation measures.⁷⁹

DEIR errs in its legal interpretation of *KG Farms*. *KG Farms* does not stand for the proposition that agricultural conservation easements are legally infeasible to mitigate the conversion of agricultural lands.⁸⁰ Rather, the case holds that, on a one-to-one ratio (e.g., conserving one acre of agricultural land under an easement for every one acre of agricultural land converted in the development), agricultural conservation easements are not alone sufficient to adequately mitigate a project’s conversion of agricultural lands. In accordance with CEQA’s requirement to adopt all feasible mitigation for significant impacts, a feasible measure that substantially lessens an impact, without avoiding the impact in whole, must nonetheless be included as mitigation prior to project approval.⁸¹ Indeed, the holding in *KG Farms* indicates that to the extent that conservation easements are considered for mitigation, they could be applied at a greater than one-to-one ratio, or combined with other forms of mitigation (such as restoration into farmland of some land not currently used as such).

Because conservation easements are feasible and would lessen the effects of the Project’s conversion of agricultural land to industrial uses, the County should include them as mitigation.

C. The DEIR Should Mitigate the Project’s Significant Impacts to Tribal Cultural Resources.

As the County has been informed through consultation with the tribes, the Project site is on and adjacent to a landscape that holds tangible and intangible connections for the tribes. Not only does this landscape contain known and unknown archaeological resources and biological resources important to the tribes’ history and traditional practices, the landscape also holds cultural significance through oral history that connects descendants of the tribes to that landscape.⁸² The Project site overlaps with the tribes’ traditional trails and traditional harvesting

⁷⁸ DEIR at 4.2-4 Figure 4.2-1; 4.2-12 to -13.

⁷⁹ *Id.* at 4.2-13 to -15.

⁸⁰ A recent decision in a case related to *KG Farms* rejected this exact reasoning in the DEIR and concluded that the Court of Appeals in *KG Farms* did not preclude as a matter of law the use of conservation easements as mitigation. (See *Vaquero Energy v. County of Kern* (Super. Ct. Kern County, 2022, No. BCV-15-101645) at 9.)

⁸¹ Pub. Resources Code, § 21100, subd. (b)(3).

⁸² DEIR at 4.19-5 to -6.

and gathering areas. The Project would impact that connection by preventing access by the tribes to areas that would become warehouses or other structures. Although the DEIR allows access for the tribes to continue gathering and visiting within the Project site's designated 20-acre "Preservation Area,"⁸³ this area is limited to only a small portion of the nearly 600-acre Project site, and overlaps with only a small portion of the Tribal Cultural Landscape and other surrounding areas of historical and cultural significance that was once accessible to the tribes. The DEIR should therefore include additional areas in which the tribes have access for educational, cultural, and ceremonial practices, as well as for the harvesting and gathering of native plant species, so that traditional practices and connections to the land may be maintained.

Furthermore, because construction of the Project includes ground disturbing activities that could harm known and currently unknown tribal cultural resources potentially significant to the tribes, culturally appropriate mitigation is necessary. For instance, if it is determined that reburial or relocation of tribal cultural resources is necessary, then the relocation and/or reburial should be conducted in a culturally appropriate manner. Culturally appropriate preservation of these tribal cultural resources may require reburial or relocation close to their original site(s), within the same viewshed and geological conditions that keep the resources within their historical context so as to maintain the tribes' traditions and connections to these resources, and to preserve their indigenous footprint. Currently, the DEIR mitigates the impacts to both currently known tribal cultural resources and potentially inadvertently discovered resources by providing for their relocations and reburials in an open space area of approximately 20 acres.⁸⁴ However, because this open space is constrained to one small portion of the Project site, it may not have the requisite topological and geological diversity to allow resources relocated from a vast geographic area to maintain their contextual integrity or be treated in a culturally appropriate manner. Thus, more than one open space area should be made available to provide more options for tribal cultural resources to be reburied close to their original contexts or relocated in a culturally appropriate place and manner, or for other culturally appropriate mitigation measures to be considered. The County should consult with tribes to determine additional areas for the preservation of these resources and work with the tribes on measures to ensure their security.

V. CONCLUSION

CEQA promotes public health and thoughtful governance by requiring evaluation, public disclosure, and mitigation of a project's significant adverse environmental impacts before project approval. When implemented well, CEQA builds public trust and encourages sustainable development that will serve the local community for years to come. We urge the County to revise the DEIR to fully analyze and disclose all significant impacts and adopt all feasible mitigation and recirculate the revised DEIR for further public review and comment. Furthermore, pursuant to the County's obligations under AB 52, we urge the County to continue consultation with the tribes up until the Final EIR for the Project is certified, in case any pre-certification changes to the Project cause further significant impacts to tribal cultural resources that would require measures to mitigate or avoid the impacts. We are available to provide

⁸³ *Id.* at 4.5-36.

⁸⁴ *Ibid.*; *id.* at 2-8.

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assistance to the County as it works to comply with CEQA. Please do not hesitate to contact us if you have any questions or would like to discuss.

Sincerely,

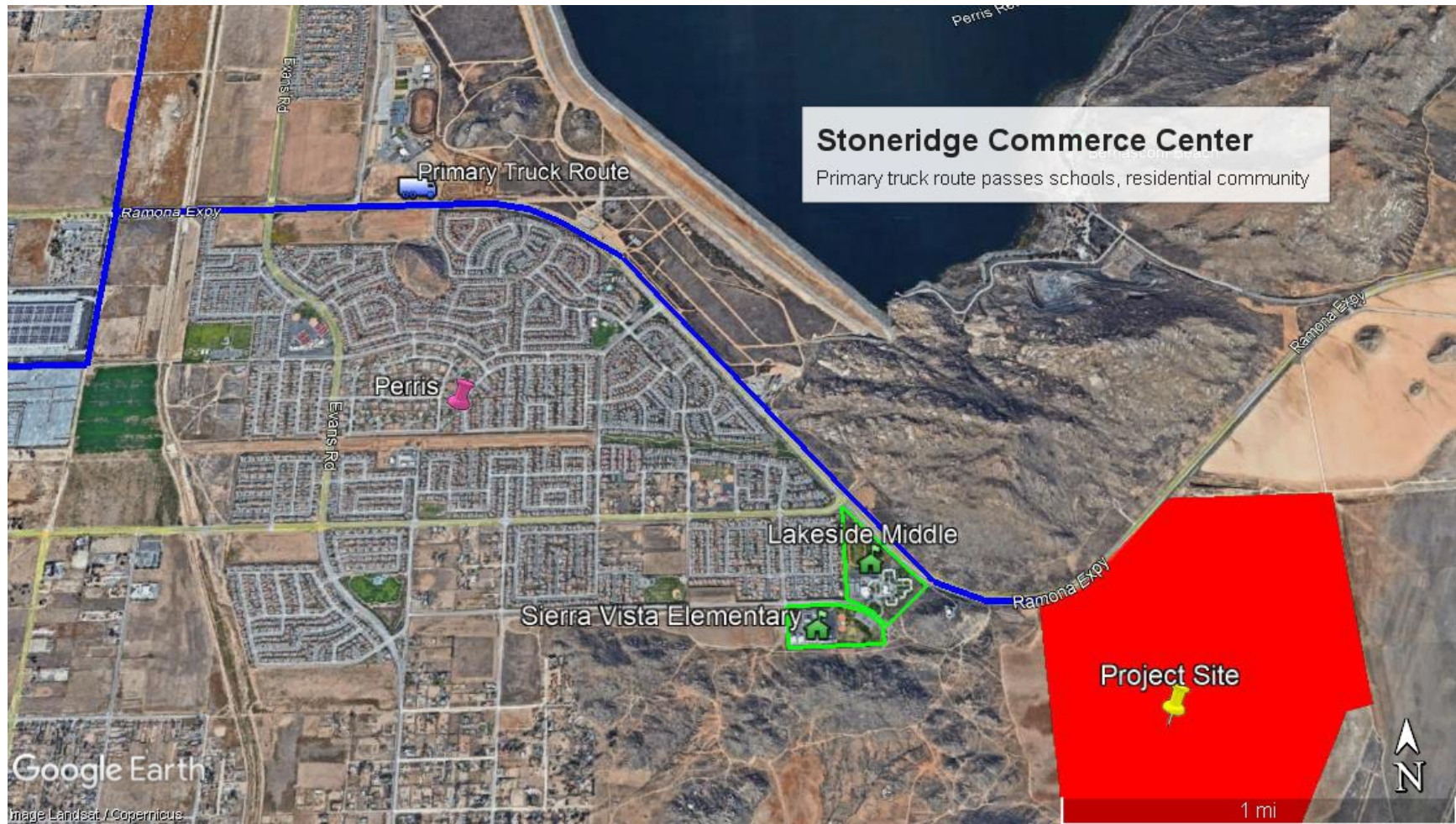
A handwritten signature in black ink, appearing to read 'R. Swanson', with a stylized, flowing script.

ROBERT SWANSON
Deputy Attorney General

YUTING CHI
Deputy Attorney General

For ROB BONTA
Attorney General

Exhibit A: Annotated Maps of the Primary and Southern Truck Routes



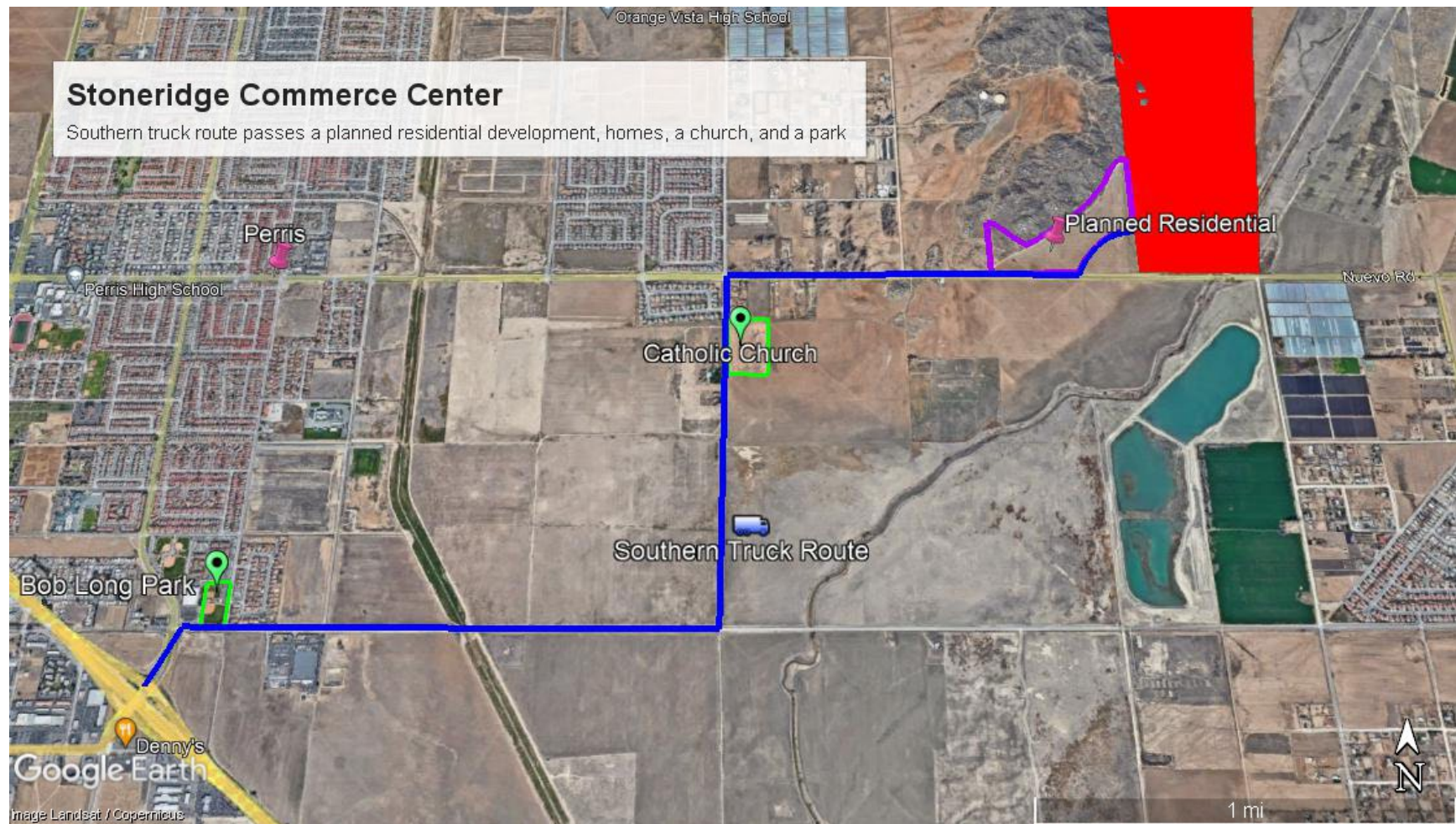


Exhibit B: Annotated Map of the Project Vicinity

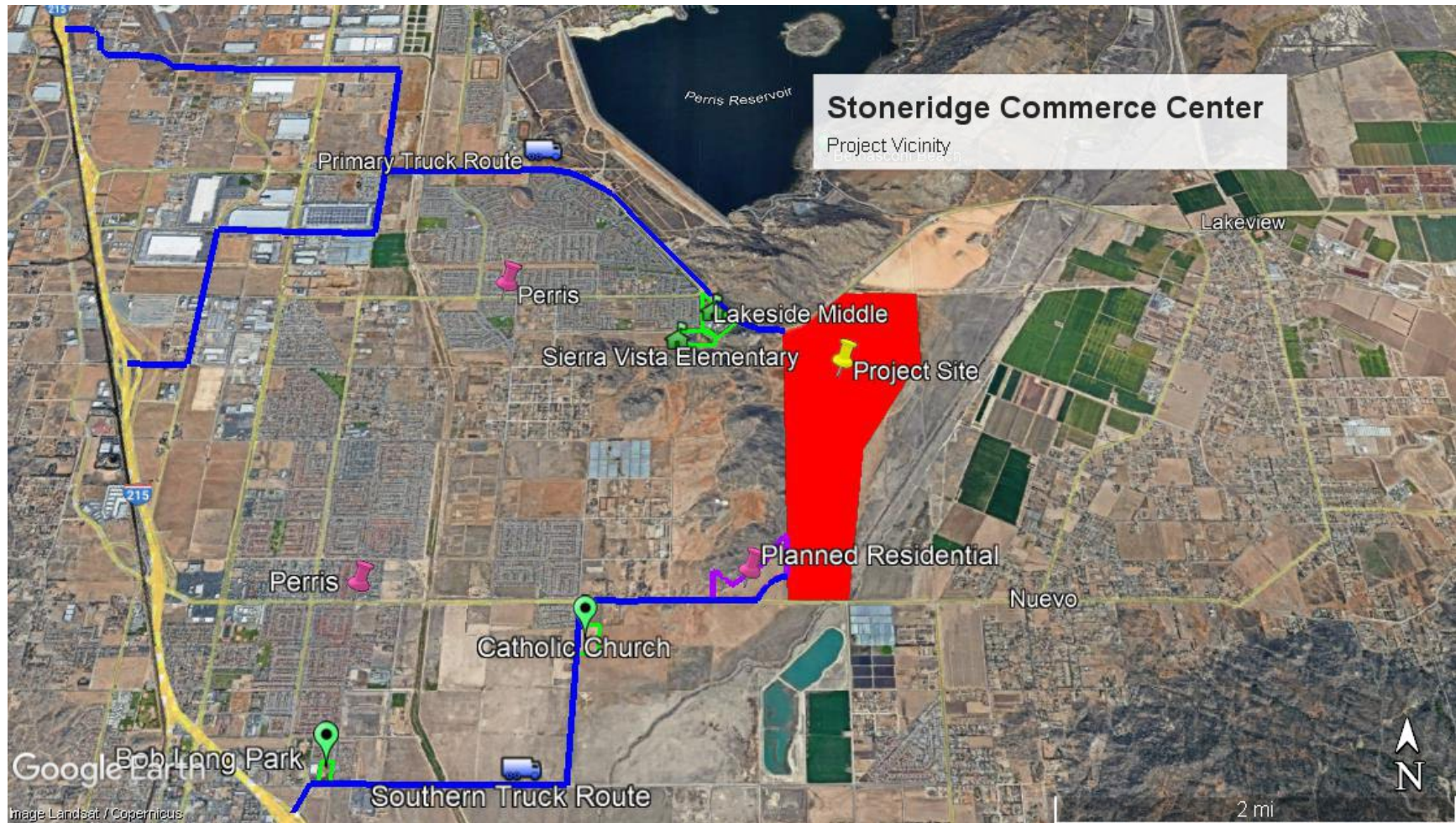


Exhibit C: McCanna Hills Specific Plan Map

